IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

**MICHAEL PATTON; PATRICK JOHNSON:
CHARTAVIAUNCA ODOM; DAWATHA PICKENS:
MAMIE TURNER; REGINALD EVANS;
CHARLES EVERETT; and DEANTHONY JONES** **PLAINTIFF**

VS. **CAUSE NO.: 2:16-cv-186-KS-MTP**

**WAYNE COUNTY, MISSISSIPPI (same entity
as Sheriff of Wayne County, Mississippi, in his
Official capacity) and
JODY ASHLEY in his individual capacity** **DEFENDANTS**

JODY ASHLEY'S MOTION FOR STAY

Comes now Jody Ashley, by and through counsel, and pursuant to Rule 16 of the Uniform Local Civil Rules of the United States District Court for the Northern and Southern Districts of Mississippi, respectfully moves for a Stay of all matters in this case until such time as this Court has ruled on Defendants' Motion for Judgment on the Pleadings based on qualified immunity. In support of the same, the moving defendant would show unto the Court as follows:

1. On November 3, 2016, Plaintiffs filed suit against Wayne County, Mississippi and Sheriff Jody Ashley in his individual capacity, alleging that they were all terminated from employment based on their race and that employees of other races were not terminated. *CM/ECF Doc. No. 1.* In their Complaint, Plaintiffs allege that Sheriff Ashley violated their Fourteenth Amendment rights. *Id.*

2. In response to the Complaint, Sheriff Ashley raised qualified immunity as an affirmative defense (*CM/ECF Doc. No. 3*), and subsequently, has filed a Motion for Judgment on the Pleadings as to Federal Claims also based on qualified immunity.

3. Local Rule 16(b)(3)(B) provides that the filing of an "immunity defense or jurisdictional defense motion stays the attorney conference and disclosure requirements and all discovery not related to the issue pending the court's ruling on the motion, including any appeal." L.U. Civ. R. 16(b)(3)(B).

4. As this Court is well aware, "[o]ne of the most salient benefits of qualified immunity is protection from pretrial discovery, which is costly, time-consuming, and intrusive" *Backe v. LeBlanc*, 691 F.3d 645, 648 (5th Cir. 2012)(citing *Helton v. Clements*, 787 F.2d 1016, 1017 (5th Cir. 1986)). As such, a district court must first find "that the plaintiff's pleadings assert facts which, if true, would overcome the defense of qualified immunity." *Backe*, 691 F.3d at 648. A plaintiff seeking to overcome qualified immunity must plead specific facts that both allow the court to draw the reasonable inference that the defendant is liable for the harm he has alleged and that defeat a qualified immunity defense with equal specificity. *Wicks v. Mississippi State Employment Svcs.*, 41 F.3d 991, 995 (5th Cir. 1995).

5. Only if the district court first finds a plaintiff has pled specific facts as stated above, and the court remains "unable to rule on the immunity defense without further clarification of the facts," may the court issue a discovery order "narrowly tailored to uncover only those facts needed to rule on the immunity claim." *Id.* (citing *Lion Boulos v. Wilson*, 834 F.2d 504, 507 (5th Cir. 1987)).

6. Here, Sheriff Ashley has asserted that he is protected by qualified immunity. More specifically, the moving defendant contends that Plaintiff has provided only "bald allegations and conclusory statements" rather than pleading "with sufficient particularity all facts establishing a right to recovery, including facts which negate the official's immunity defense." *Wicks*, 41 F.3d at 995.

7. Until such time as this Court has ruled on the moving defendant's Motion for Judgment on the Pleadings, Local Rule 16 requires all matters, including the attorney conference and disclosure requirements be stayed. A Rule 16(a) Initial Order has already issued in this matter, and the moving defendants would request that the same be withdrawn and that the telephonic case management conference (TCMC) be canceled. See *CM/ECF Doc. No. 4.*

8. Because of the simple and self-explanatory nature of this motion, the moving defendant respectfully requests that he be relieved of any obligation to submit a supporting memorandum of authorities.

WHEREFORE, PREMISES CONSIDERED, the moving defendant would respectfully request that, pursuant to Local Rule 16, this Court stay all matters including the attorney conference, disclosure requirements and discovery pending the resolution of their Motion to Dismiss.

DATE: December 6, 2016.

Respectfully submitted,

JODY ASHLEY

BY: _/s/William R. Allen_
One of His Attorneys

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CERTIFICATE

I, the undersigned, of Allen, Allen, Breeland & Allen, PLLC, attorneys of record for defendants, hereby certify that I have filed a copy of the Motion for Stay of Proceedings with the Clerk which gave notification to the following:

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This the 6th day of December, 2016.

/s/William R. Allen
OF COUNSEL